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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,405	04/14/2006	Frank Erwin Schulte	740116-614	8708
25570	7590	09/25/2008	EXAMINER	
ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C. Intellectual Property Department P.O. Box 10064 MCLEAN, VA 22102-8064			WOOD, JONATHAN K	
			ART UNIT	PAPER NUMBER
			4137	
			NOTIFICATION DATE	DELIVERY MODE
			09/25/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lgallagher@rmsclaw.com  
dbeltran@rmsclaw.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/595,405	SCHULTE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JONATHAN WOOD	4137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 19-41 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 19-41 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/14/2006</u> .   | 6) <input type="checkbox"/> Other: ____ .                         |

## DETAILED ACTION

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the abstract includes the legal phraseology 'said.' Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

Claim 41 is objected to because of the following informalities: Claim 41, line 11 recites 'of splashes..' which appears to be a grammatical error for the phrase 'of splashes.' Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27-28 and 33-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. In particular, the term "the sleeve sections" is unclear as to which and how many of the previously recited sleeve sections it refers to.

Claim 40 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regards to the limitation "the parts in a location exposed to liquid being dispensed" in line 2, there is insufficient antecedent basis for this limitation in the claim. It is unclear which parts the applicant is referring to.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Foster* (US Patent No. 5,826,756) in view of *Yang* (US Patent No. 5,507,626).

As to claim 19, *Foster* discloses a 'dispenser pump for delivery of liquid from a container, comprising: a pump housing (pump housing 14') which is attachable to a container (col. 3, ln. 33), a pump shaft (plunger 16') which is movable relative to the pump housing (col. 3, ll. 20-21), a dispenser head (dispensing head 56') on the pump shaft, a first sleeve section (second cylinder 98) which extends from the dispenser head toward the pump housing (col. 6, ll. 2-3) and radially surrounds the pump shaft (Fig. 5) ...a third sleeve section (first cylinder 92') which extends towards the pump housing and which is movable into the first sleeve so that the first and third sections form a

telescopically extendable splash protection around the pump shaft between the pump housing and the dispenser head (col. 6, ll. 2-7).'

*Foster* does not expressly disclose a second sleeve section which extends from the first sleeve section, is movable into the first sleeve, and allows for the third sleeve to be moved into it so that the second sleeve extends peripherally over the third sleeve section.

*Yang* discloses a second sleeve section (second cylinder 20) which extends from the first sleeve section and which is movable into the first sleeve section, the second sleeve section in any axial position of the pump shaft extending peripherally over the third sleeve section (col. 3, ll. 1-20).

*Foster* and *Yang* are analogous art because they are from the same field of endeavor with respect to pumping mechanisms.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to use the dispenser pump of *Foster* with the additional telescoping sleeve of *Yang*. The suggestion/motivation would have been in order to reduce the pump strokes required to pump a certain amount of fluid while keeping the pump to a compact size (*Yang* col. 1, ll. 49-54).

As to claim 20, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Foster* further discloses 'wherein the first sleeve section is attached to the dispenser head (col. 6, ll. 2-3).'

As to claims 21, 23, and 24, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Yang* further discloses 'wherein the first sleeve section has an

inner projection (limit 40) which is engageable with the second sleeve section on an end area thereof which is adjacent to the second sleeve section, so that the second sleeve section cannot be pulled out of the first sleeve section (col. 3, ll. 14-16)...wherein the second sleeve section has an outer projection (piston 23) on an end area thereof that is adjacent to the first sleeve area, and wherein the inner projection and the outer projection each fit behind one another (Fig. 2)...wherein at least one of the inner projection and the outer projection is an annular shoulder (limit 40).'

As to claim 22, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Yang* further discloses 'wherein the second sleeve section has an inner projection (limit 25) which is engageable with the third sleeve section on an end thereof in an area adjacent to the third sleeve section, so that the third sleeve section cannot be pulled out of the second sleeve section (col. 3, ll. 1-4).'

As to claim 25, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Foster* further discloses 'wherein the third sleeve section (first cylinder 92) is attached to the pump housing (Fig. 5).'

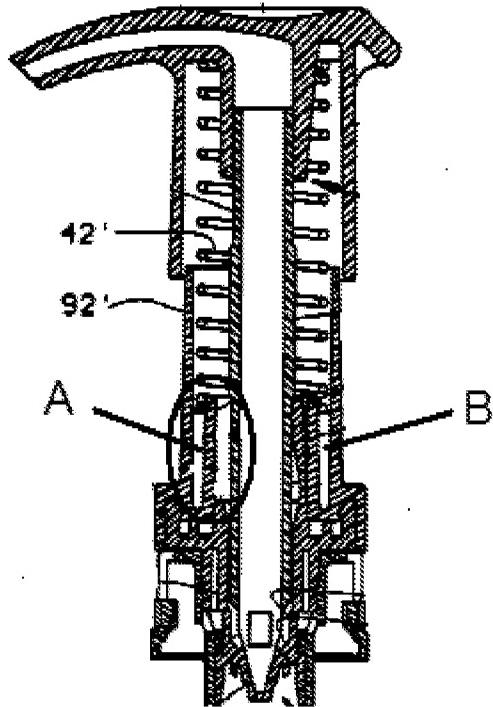
As to claim 26, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Foster* further discloses 'wherein the third sleeve section (first cylinder 92) is mounted on a collar (connector 26) of the pump housing (Fig. 5).'

As to claim 27, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Foster* further discloses 'wherein at least overlapping areas of the sleeve sections are at least essentially the same length when the pump shaft is drawn in (Fig. 6).'

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As to claim 28, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Foster* further discloses 'wherein the sleeve sections are lockable in a position pushed into one another (col. 5, ll. 28-32, 54-59).'

As to claims 29 and 30, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Foster* further discloses 'a guide sleeve (A, figure below) which projects from the pump housing toward the dispenser head and surrounds the pump shaft...wherein the third sleeve section radially surrounds the guide sleeve at a distance and an annular space (B, figure below) is formed there between.'



As to claims 31, 34, 35, and 37, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Foster* further discloses 'a spring (coil spring 42') which pretensions the pump shaft, wherein the spring is located radially outward of the pump

shaft (col. 5, ll. 58-67)...wherein the spring is radially surrounded by the sleeve sections (Fig. 5)...wherein the spring is located radially between the pump shaft and the sleeve sections (Fig. 5)...wherein the spring is a helical spring (coil spring 42').'

As to claims 32, 33, 36, and 38, *Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Foster* further discloses 'a spring (coil spring 42') which pretensions the pump shaft, wherein the spring is located between the pump housing and the dispenser head (Fig. 5)...wherein the spring is radially surrounded by the sleeve sections (Fig. 5)...wherein the spring is located radially between the pump shaft and the sleeve sections (Fig. 5)...wherein the spring is a helical spring (coil spring 42').'

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Foster* in view of *Yang* as applied to claim 19 above, and further in view of *Callahan et al* ('*Callahan*') (US Patent No. 5,156,307).

*Foster* in view of *Yang* teaches the dispenser pump of the parent claim. *Foster* further discloses 'a valve with a valve ball (ball check valve 36').'

*Foster* does not expressly disclose that the valve ball is of plastic material.

*Callahan* discloses 'a valve ball of metal, plastic or ceramic (col. 3, ln. 5).'

*Foster* and *Callahan* are analogous art because they are from the same field of endeavor with respect to fluid dispensers.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the dispenser structure of *Foster* with the plastic valve ball of *Callahan*. The suggestion/motivation would have been in order to make the check valve resistant to corrosive and aggressive fluids passing through the dispenser.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Foster* in view of *Yang* as applied to claim 19 above, and further in view of *Balogh* (US Patent No. 4,071,172).

*Foster* in view of *Yang* teaches the dispenser pump of the parent claim.

*Foster* as modified by *Yang* does not expressly disclose that all of the parts exposed to liquid being dispensed are made of plastic.

*Balogh* discloses 'aside from the return spring, all the parts of the liquid dispenser may be made of plastic material (co. 1, ll. 33-35).'

*Foster* and *Balogh* are analogous art because they are from the same field of endeavor with respect to manually operated liquid dispensers.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the dispenser structure of *Foster* with the all plastic parts limitation of *Balogh*. The suggestion/motivation would have been in order to make the dispenser resistant to corrosive and aggressive fluids.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Foster* (US Patent No. 5,826,756) in view of *Balogh* (US Patent No. 4,071,172).

*Foster* discloses a 'a pump housing (pump housing 14') which is attachable to a container (col. 3, ln. 33) , a pump shaft (plunger 16') which is movable relative to the pump housing (col. 3, ll. 20-21), a dispenser head (dispensing head 56') on the pump shaft, and a spring (coil spring 42') which pretensions the pump shaft, wherein the spring is located one of radially outside of the pump shaft and between the pump housing and the dispenser head (Fig. 5, col. 5, ll. 58-67)...wherein at least one sleeve

(first cylinder 92') is provided surrounding the spring for protecting against penetration of splashes (col. 2, ll. 29-30).

*Foster* does not expressly disclose that all parts exposed to the liquid being dispensed are made of plastic.

*Balogh* discloses 'aside from the return spring, all the parts of the liquid dispenser may be made of plastic material (co. 1, ll. 33-35).'

*Foster* and *Balogh* are analogous art because they are from the same field of endeavor with respect to manually operated liquid dispensers.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the dispenser structure of *Foster* with the all plastic parts limitation of *Balogh*. The suggestion/motivation would have been in order to make the dispenser resistant to corrosive and aggressive fluids.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN WOOD whose telephone number is (571)270-7422. The examiner can normally be reached on Monday through Friday, 7:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571)272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/  
Supervisory Patent Examiner, Art  
Unit 4137

JKW